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PATENT
Customer No. 22,852
Attorney Docket No. 07019.0004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Amy MULDERRY et al.) Group Art Unit: 2167
Serial No.: 09/473,649) Examiner: G. J. O'Connor
Filed: December 28, 1999)
For: METHOD AND APPARATUS FOR)
MARKETING PRODUCTS OVER)
THE INTERNET)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated August 9, 2001, the Examiner required restriction under 35 U.S.C. §121 between the following six groups:

Group I: Claims 1-9, drawn to a method of electronic shopping (e.g., remote ordering), classified in class 705, subclass 26;

Group II: Claims 10-13, drawn to a method of use of a point of sale terminal or electronic cash register, classified in class 705, subclass 16;

Group III: Claims 14-18, drawn to a system for electronic shopping or ordering comprising the presentation of an image or description of a sales item, classified in class 705, subclass 27;

Group IV: Claims 19-22, drawn to a point of sale terminal or electronic cash register comprising a price look-up table, classified in class 705, subclass 20;



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Group V: Claims 23-27, drawn to a system comprising interconnection or interaction of plural electronic cash registers, classified in class 705, subclass 21; and

Group VI: Claims 28-31, drawn to a point of sale terminal or electronic cash register having an interface for record bearing medium or carrier for electronic funds transfer or payment credit, classified in class 705, subclass 17.

Applicants provisionally elect to prosecute Group I, claims 1-9, drawn to a method of electronic shopping (e.g., remote ordering) with traverse.

The Applicant respectfully traverses the Examiner's restriction requirement on the ground that the Office has not established the two criteria necessary for a proper restriction under MPEP §803: (A) the inventions must be independent (see MPEP §802.01, §808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); and (B) There must be a serious burden on the examiner if restriction is required (see MPEP §803.02, §806.04(a)-(i), §808.01(a), and §808.02).

In the restriction requirement, the Examiner alleges that the inventions I-II are distinct because each of the processes as claimed can be practiced by materially different apparatuses such as the apparatus of invention III and the apparatus of invention IV. The Examiner further states that even though inventions I-VI are each related as subcombinations disclosed as usable together in a single combination, "Inventions I, II, and V each have separate utility from inventions II, IV, and VI, such as for providing for the delivery of periodicals in fulfillment of electronic orders received therefor."

In response, Applicants argue that the allegation that the inventions are unrelated has not been properly supported since the Examiner has failed to provide adequate

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reasoning and/or examples that sufficiently support his conclusion. In order to properly support the allegation, the Examiner must demonstrate that inventions are not disclosed as capable of use together as the Examiner set forth in the restriction requirement. The Applicants believe that the inventions are not "unrelated" because, as admitted by the Examiner, inventions I-VI are disclosed as usable in a single combination.

Furthermore, the Examiner has not shown that there would be a serious burden to examine all claims pending in this application. The alleged Group I-VI claims are all designated as the same search class by the Office such that the Examiner will search substantially the same art for each Group.

In view of the reasons set forth above, the Applicant respectfully requests reconsideration and withdrawal of restrictions between inventions I-VI.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: January 9, 2002

By:


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